

he should be. But if I give a legacy by my will, where is the law that requires me to appoint a disinterested executor to pay it to the legatees? Frequently, very generally indeed, executors are interested parties, biased and warped by self-interest, but whoever before heard of a *legatee* objecting to his legacy on this ground? In this case it happens that the executor is free, untrammelled, and unwarped, which makes the complaint the more unreasonable, but if it were not as baseless as the fabric of a dream, if Mr. Williams were indeed subjugated by his promise to Dr. Rush, still in this case the law is that *he* shall execute the trusts of the will.

Equally inapplicable is the doctrine of the Duke of Portland's case. That was a case of settlement under peculiar circumstances, and the two attempts to execute the power were held void because the donee did not act upon his own discretion, but confessed himself a mere dummy. The Lord Chancellor said a valid appointment might have been made of the fund, but such as was made was held to be a fraud upon the power. What has the reasoning upon such a case to do with a will to be executed under the superintendence of our Orphans' Court, by an executor duly empowered to act, and actually proceeding as fast as he can to execute the will? I confess it is hard to trace an analogy that is so remote and attenuated.

These are the instances, set up by way of authority, to support the theory of the bill, and it is significant that they are so few and so inconclusive. Against them, such as they are, I oppose the plain text of the will, and planting myself on that solid ground, I say that the discretion and judgment necessary to select a site for the library building must be exercised by Henry J. Williams or Alexander Biddle or Thomas Craven, or else Dr. Rush's will must be overthrown, and his heirs-at-law be admitted to the inheritance of his estate.

The 28th clause of the codicil of 16 May, 1866, and the 5th clause of the codicil of 18 April, 1867, contemplate the